

REMARKS

Claims 1 and 3-7 are pending in the application. Claims 1 and 3-7 have been rejected under 35 U.S.C. § 103. Claims 1 and 3-7 have also been rejected under the judicially created doctrine of obviousness-type double patenting.

Applicants have amended Claim 1, herewith, to delete “at least one substituent” at line 9 and insert -- a substituent --.

Applicants respectfully seek that the above amendment be entered for the reason that amended Claim 1 would be allowable.

Response to the Rejection of Claims 1 and 3-7 under 35 U.S.C. § 103

Claims 1 and 3-7 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Reisch et al. in Macromol. Chem. Phys. Vol. 200, No. 3 (1999), pp. 552-561 (“Reisch”).

Reisch et al is relied upon as teaching homologs that are allegedly within the scope of the present claims.

Applicants submit that Reisch does not teach homologs of the presently claimed polymers and that, therefore, Reisch does not render obvious the claimed invention.

Applicants specifically submit that Reisch teaches di-substituted polymers. *See* polymer 11a-e. In contrast, the presently-claimed polymeric substance is mono-substituted. Thus, Reisch does not teach all of the elements recited in claim 1.

Applicants further submit that one of ordinary skill in the art would not be motivated to modify the polymers of Reisch and be able to arrive at the presently-claimed invention because Reisch teaches away from the present invention. Reisch discloses that mono-substituted PPV possesses poor solubility. *See* page 552, lines 6-10. This, one of ordinary skill in the art would

not be motivated to modify the polymers of Reisch in the manner necessary to arrive at the present invention.

Applicants additionally note that the presently claimed mono-substituted polymeric substance exhibits visible fluorescence in the solid state and unexpectedly good solubility. Applicants submit that one of ordinary skill in the art would not expect the presently claimed substance to exhibit good solubility in view of the disclosure of Reisch.

In view of the foregoing, Applicants respectfully request that the obviousness rejection be reconsidered and withdrawn.

Response to the Double-Patenting Rejection

Claims 1 and 3-7 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1, 3 and 6-15 of U.S. Patent No. 6,521,359.

In response to the double-patenting rejection, Applicants file herewith a Terminal Disclaimer, which disclaims the terminal part of any patent granted on this application (U.S. Appln. No. 09/928,348) which would extend beyond the expiration of the patent term granted to U.S. Patent No. 6,521,359. A check for the \$110.00 Terminal Disclaimer fee is submitted herewith. The filing of this terminal disclaimer is not an admission of the propriety of the rejection. Furthermore, the terminal disclaimer raises neither a presumption nor estoppel on the merits of the rejection. *See* MPEP §804.02.

Furthermore, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner

AMENDMENT UNDER 37 C.F.R. § 1.116

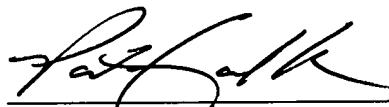
U.S. Application No. 09/928,348

Q65688

feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Patrick R. Gallagher
Registration No. 54,109

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: June 15, 2004